

**BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF SOUTH DAKOTA**

<b>IN THE MATTER OF THE PETITION FOR )</b>	<b>DECLARATORY RULING</b>
<b>DECLARATORY RULING OF THE CITY OF )</b>	
<b>BERESFORD ON WHETHER A PROPOSED )</b>	<b>EL02-004</b>
<b>TRANSMISSION LINE MEETS THE )</b>	
<b>DEFINITION OF SDCL 49-41B-2.1 )</b>	

On March 18, 2002, the South Dakota Public Utilities Commission (Commission) received a Petition for Declaratory Ruling from the City of Beresford, South Dakota (City). According to the Petition, the City is proposing to construct a new 115 kV electric transmission line. The City plans to deliver electrical energy to its customers using this new transmission line and new municipal substation. Based on the March 26, 2002, revised filing, the proposed new transmission line will be installed on private property for approximately ½ mile south of the Western substation within an existing easement, and Lincoln County Pleasant Township public ROW on 295th Street and 471st Avenue. Currently, the City of Beresford occupies the west ROW of 471st Avenue with a 12.47 kV distribution line. It is proposed that the new transmission line will be built along the west ROW with the distribution line underbuilt on the new transmission structures. Based on the figures submitted with the revised filing, the transmission structures on 295th Street and 471st Avenue will be placed one foot inside the ROW line (on public ROW). The City of Beresford has existing easements to accommodate the overhang of the transmission and distribution conductors along the entire route of the line. The City asked that a determination be made as to whether or not the proposed project falls within the SDCL 49-41B-2.1 definition of a transmission line and associated facility, thereby requiring a SDPUC permit.

On March 21, 2002, the Commission electronically transmitted notice of the filing and the intervention deadline of March 27, 2002. No petitions to intervene or comments were filed. On March 28, 2002, at its regularly scheduled meeting, the Commission considered the matter. Commission Staff recommended that the Commission find that the proposed project does not meet the definition of a transmission line and associated facility and therefore is not subject to the Commission's siting jurisdiction. The Commission finds that it has jurisdiction over this matter pursuant to SDCL 49-41B, specifically, 49-41B-2.1(2) which states that a 115 kV transmission line is subject to the Commission's siting jurisdiction "if more than one mile in length of the transmission line does not follow section lines, property lines, roads, highways or railroads, or is not reconstruction or modification of existing transmission lines and existing associated facilities located on abandoned railroad rights-of-way. . . ." The Commission finds that the proposed project does not meet the definition of a transmission line and associated facility and therefore is not subject to the Commission's siting jurisdiction. It is therefore

ORDERED, that the City's proposed 115 kV transmission line is exempt from the

Commission's siting jurisdiction because less than one mile is outside of the existing public right of way.

Dated at Pierre, South Dakota, this 4th day of April, 2002.

<p style="text-align: center;"><b>CERTIFICATE OF SERVICE</b></p> <p>The undersigned hereby certifies that this document has been served today upon all parties of record in this docket, as listed on the docket service list, by first class mail, in properly addressed envelopes, with charges prepaid thereon.</p> <p>By: _____</p> <p>Date: _____</p> <p style="text-align: center;">(OFFICIAL SEAL)</p>
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BY ORDER OF THE COMMISSION:

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JAMES A. BURG, Chairman

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PAM NELSON, Commissioner

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ROBERT K. SAHR, Commissioner